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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,018	02/10/2004	Robert Lievestro	VER-178XX	9076
207 7590 07/26/2007 WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109			EXAMINER CONLEY, FREDRICK C	
			ART UNIT 3673	PAPER NUMBER
			MAIL DATE 07/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/776,018	Applicant(s) LIEVESTRO ET AL.	
	Examiner FREDRICK C. CONLEY	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 6, 7, 19, 20, 24, 27 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 6, 7, 19, 20, 24, 27 and 29-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6-7, 19-20, 27, 27, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,632,053 to Weingartner et al. in view of U.S. Pat. No. 4,294,489 to Anolick et al.

Claims 24, 27, 30, and 32, Weingartner discloses a seat cushion, in particular for a seat, comprising:

a first foam body 8 (col. 10 line 30);

a second foam body 7 (col. 10 lines 13-17) extending below the first foam body (fig. 2); detachable connecting means defined by burred tap 43 to connect the first foam body to the second foam body (col. 10 lines 6-12) via a covering (36,44) which is fixedly connected via burred taped arrangements 42 to the underside of the first foam body (fig. 2)(col. 11 lines 57-59);

wherein: the covering comprises a fire-retardant material (col. 10 lines 34-38)(col. 11 lines 2-11); the seat cushion is arranged to be detachably placed on a seat apparatus (col. 2-3 lines 65-68 & 1-1);

the covering is provided with an upper covering part, a lower covering part extending opposite the upper covering part, and side flaps 44 extending between the upper and lower covering part (fig. 3);

the detachable connecting means connects the lower covering part to the second foam body (fig. 2);

the covering and the upper foam body bound an inner space in which the second foam body is receivable; the lower covering part is provided with an opening offering access to the said inner space. Weingartner fails to disclose a lightweight fire- retardant material, such as melamine foam having an average density which is lower than approximately 0.1 gram/cm³ more in particular lower than approximately 0.02 gram/cm³. Anolick discloses a lightweight fire-retardant material, such as a foam including a melamine resin having an average density which is lower than approximately 0.1 gram/cm³ more in particular lower than approximately 0.02 gram/cm³ (col. 3 lines 20-23)(col. 6 lines 25- 27). It would have been obvious to employ a lightweight fire-retardant material incorporating a melamine resin as taught by Anolick in order to improve the flame resistance of the seat cushion. Selecting from a plethora of known materials is considered obvious and it would have been obvious to merely select a melamine foam in order to provide an alternative fire-retardant material.

Claim 2, Weingartner in view of Anolick discloses a seat cushion according to claim 24, wherein the covering is connected to at least an upper surface of the first foam body (fig. 2-3).

Claims 6-7, Weingartner in view of Anolick discloses a seat cushion according to claim 24, Weingartner fails to disclose the cover comprising glass fiber. However, Weingartner discloses that it is well known to employ glass fiber with the seat cushion (col. 1 lines 46-49)(col. 2 lines 23-25). It would have been obvious for one having

ordinary skill in the art at the time of the invention to employ glass fibers as taught by Weingartner in order further prevent the seat cover from burning through in the direction of the seat cushion and to reduce damage by vandals (col. 1 lines 49-52)(col. 2 lines 25-26).

Claim 19, Weingartner in view of Anolick discloses a seat cushion according to claim 24, wherein the seat apparatus defined by a supporting frame 5 is provided.

Claim 20, Weingartner in view of Anolick discloses a seat cushion according to claim 19, wherein an aircraft is provided with the seat apparatus (col. 2 lines 41-45).

Claim 31, Weingartner in view of Anolick discloses a seat cushion according to claim 30, wherein the covering adjacent the second foam body is provided with at least a part of the said detachable connecting means (fig. 2).

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,632,053 to Weingartner et al. in view of U.S. Pat. No. 4,294,489 to Anolick et al., as applied above and further in view of U.S. Pat. No. 5,850,645 to Ogawa et al.

Claim 3, Weingartner, as modified, discloses a seat cushion according to claim 24, Weingartner fails to disclose the covering is glued to the first foam body. Ogawa discloses a cover being adhered to a first foam body (col. 7 lines 40-50). It would have been obvious for one having ordinary skill in the art at the time of the invention to adhere the cover to the first foam body as taught by Ogawa in order to form a composite material wherein the cover is integral with the first foam body (col. 44-50).

Claim 4, Weingartner, as modified, discloses a seat cushion according to claim 24, Weingartner fails to disclose that the first and second foam body are detachably connected to each other by hook and loop connections. Ogawa discloses a hook and loop connection between a first and second foam body (col. 5 lines 53-58). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a hook and loop connection as taught by Ogawa in order to provide an alternative detachable connecting member.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,632,053 to Weingartner et al. in view of U.S. Pat. No. 4,294,489 to Anolick et al., as applied above and further in view of U.S. Pat. No. 3,987,507 to Hall.

Claim 29, Weingartner, as modified, discloses at least part of the seat cushion comprises lightweight fire-retardant, foam material. Weingartner fails to disclose that a part of foam material is received in a cavity between said first and second foam bodies. Hall discloses a part of foam material (19',20',21') is received in a cavity (19-21) between first and second bodies (16,17). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ foam material in cavities between first and second bodies in order to distribute pressure away from pressure points (col. 1 lines 49-52).

Response to Arguments

Applicant's arguments filed 5/11/07 have been fully considered but they are not persuasive.

With regards to the Applicant's arguments, the Applicant's claim recites "a covering which is fixedly connected to the first foam body". Weingartner explicitly states that on the underside 12, the burred tape arrangements are arranged for the attachment of the covering material 44 covering the upper side of the seat cushion 4, which covering material extends into the region of the underside 12. Further burred tapes 42 serve for **fixing/fixedly connecting** of the seat cushion onto the frame parts 45 of the supporting frame (col. 11 lines 53-59). Furthermore, Weingartner discloses that burred tapes 24 cooperate with mating burred tapes 25 of burred closures 26 wherein burred closures 26 serve to attach the sitting part 8 on the supporting part 7 in a **detachable** manner (col. 10 lines 6-12). Fixed is defined as being set firmly in position (WEBSTER'S II NEW RIVERSIDE UNIVERSITY DICTIONARY). Weingartner clearly discloses that the cover is set firmly in position to the upper part thus the cover meets the Applicant's broad structural limitation as being fixedly connected to the upper part while the first and second foam bodies are detachably connectable to each other via burred tape arrangements of the covering.

Weingartner also disclose that the flameproof layer 36 is formed from a flame retardant open celled foam plastic 38 and foamed plastic 34 (col. 10 lines 39-41). Anolick discloses a lightweight fire-retardant material, such as a foam including a melamine resin having an average density which is lower than approximately 0.1 gram/cm³ more in particular lower than approximately 0.02 gram/cm³ (col. 3 lines 20-23)(col. 6 lines 25- 27). As previously stated, it would have been obvious to employ a lightweight fire-retardant material incorporating a melamine resin as taught by Anolick in order to improve the flame resistance of the seat cushion. Selecting from a plethora of known materials is considered obvious and it would have been obvious to merely select a melamine foam in order to provide an alternative fire-retardant material.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FC
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SUPERVISORY PATENT EXAMINER